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Report of the Special Rapporteur on the situation of human rights in Myanmar, Yanghee Lee*

Summary

Since 2011, Myanmar has undergone far-reaching changes that have affected many aspects of life in the country. However, there continue to be signs of backtracking by the Government and increasing concerns over discrimination and ethnic conflict. The present report sets out the Special Rapporteur's key areas of focus and recommendations aimed at contributing to the efforts of Myanmar towards respecting, protecting and promoting human rights and achieving democratization, national reconciliation and development.

* Late submission.

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I. Introduction

1. The present report, submitted pursuant to Human Rights Council resolution 25/26 and General Assembly resolution 69/248, covers human rights developments in Myanmar since the submission of the report of the previous Special Rapporteur on the situation of human rights in Myanmar to the Council in March 2014 (A/HRC/25/64) and the report of the current Special Rapporteur to the General Assembly in October 2014 (A/69/398). In its resolution 25/26, the Human Rights Council invited the Special Rapporteur to include in the present report further recommendations on the needs of Myanmar, including with regard to technical assistance and capacity-building, and information on the progress in the electoral process and reform in the run-up to the 2015 elections.

2. From 7 to 16 January 2015, the Special Rapporteur conducted her second mission to Myanmar. She expresses her appreciation to the Government for its cooperation during the visit.[1] She held meetings with government representatives and other stakeholders in Yangon and Nay Pyi Taw, and visited Rakhine State and northern Shan State. She visited Insein prison where she met political prisoners. She also held meetings in Bangkok, including with representatives of the Ministry of Foreign Affairs of Thailand.

3. The Special Rapporteur also continued to engage with the Permanent Missions of Myanmar in Geneva and New York. She sent seven joint communications between 12 March 2014 and 15 February 2015 and, by 15 February 2015, the Government had replied to three of them.

II. Human rights situation

A. Democratic space

4. At the beginning of his presidency, President Thein Sein made a series of commitments towards democracy and reform, including a more accountable and open government. Important improvements have been made with regard to freedom of assembly and expression since March 2011. They include a freer media and more space for people to express their views in the public sphere. However, the Special Rapporteur notes several areas where restrictions on democratic space remain severe, or may have worsened since her previous visit in July 2014. A genuine and effective democracy requires a legal and political framework that facilitates those rights in accordance with international standards. The ability of people to assemble and voice their grievances is a necessary requirement for reform and accountability. The Special Rapporteur believes that significant reform is still required for that to be achieved.

5. Free and independent media are also an important element of a democratic society. During her latest visit, the Special Rapporteur was informed that the Government is in the process of reforming media governance and has worked with journalists to that end. She commends that as a positive step and notes the enactment of several new laws. She encourages a broad and transparent consultation process, including with experts on international human rights law and standards. The Special Rapporteur received comments that insufficient consultation had taken place in the development of the Broadcasting Law, currently being discussed in the parliament. She calls on the Government to use that law to

[1] Details of the mission are available from www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15523&LangID=E.

ensure the plurality of broadcast media and the equitable allocation of licencing regimes between public, commercial and community broadcasters. Concerns were also raised over the proposed Public Service Media Law. The Special Rapporteur highlights the importance of establishing a public broadcaster that can operate in an independent manner with editorial freedom, which should include a system of funding that does not undermine its independence.

6. The Printing and Publishing Enterprise Law replaced the Press (Emergency Powers) Act and the Printers and Publishers Registration Law in 2014. The new law requires all publications to be registered by the Ministry of Information, with five-year licences granted. While that improves on the one-year licences provided previously, the new law lacks safeguards to prevent the politicization of decisions on the granting of such registrations.

7. The News Media Law was adopted in 2014 with some positive improvements on earlier drafts, including the removal of prison sentences for violations of the law. However, the law places vague restrictions on freedom of expression, with media workers permitted to investigate, publish and broadcast information in accordance with undefined "rules and regulations" that may lead to unforeseen restrictions, and with other "entitlements" qualified by reference to the Constitution or other unspecified laws. It also contains an overly broad duty to avoid writing news that deliberately affects the reputation of a specific person or organization. The law establishes a Media Council to assist in dispute mediation and to oversee the code of conduct set out in the law. The Special Rapporteur recommends that the law be reviewed with a view to removing the code of conduct, which should be voluntary, and strengthening the Media Council, including by making it a more independent body with safeguards from political influence. Such a body would then be able to develop a culture of self-regulation in the media.

8. The Special Rapporteur heard of cases in which journalists, human rights defenders and persons expressing critical opinions continued to be intimidated, harassed and/or imprisoned under defamation, trespassing and national security laws that are not consistent with international human rights standards. In December 2014, the Committee to Protect Journalists released its annual census of media professionals imprisoned worldwide.[2] Myanmar appeared on the list for the first time since 2011, ranking as the eighth worst jailer of journalists. There are currently 10 journalists imprisoned in Myanmar, all of whom were convicted in 2014. They include the chief executive and four staff members of the *Unity* weekly news journal, who were sentenced to 10 years in prison in July 2014 under the 1923 Official Secrets Act. On 2 October, the regional court reduced their sentences to 7 years following an appeal. The five were found guilty of exposing State secrets after a report in *Unity* in January 2014 had alleged the existence of a secret chemical weapons factory in Magway Region, in central Myanmar.

9. Human rights defenders informed the Special Rapporteur of regular surveillance through phone calls, and monitoring of and inquiries about their movements and activities. She highlights the obligation of the Government to demonstrate the necessity and proportionality of such measures, including in relation to the right to privacy, and to establish judicial and parliamentary oversight over the executive's use of surveillance powers.

10. A significant challenge identified by the Special Rapporteur during her visit was the need for the Government to address hate speech and incitement to violence as part of its obligation to ensure a safe and secure environment for all, including ethnic minorities,

[2] Available from www.cpj.org/imprisoned/2014.php.

religious minorities and women. The promotion of tolerance, intercultural understanding and interfaith dialogue, the deconstruction of racial, religious and gender stereotypes, and the free exchange of ideas and alternative views are crucial elements in countering hate speech, incitement to hatred and intolerance in all its manifestations.[3] Of fundamental importance is the formal rejection of hate speech by high-level public officials and the condemnation of the hateful ideas expressed. However, such measures should not be used to further restrict free speech, as a flourishing environment for freedom of expression, and the elimination of hate speech are mutually supportive.[4] During her visit, the Special Rapporteur herself was subjected to personal attacks by members of the nationalist Buddhist community who chose to use vulgar, sexist and insulting language to denounce the comments she had made on the potential discriminatory effects of the Population Control Healthcare Bill, the Bill Relating to the Practice of Monogamy, the Bill on Religious Conversion, and the Myanmar Buddhist Women's Special Marriage Bill.

11. People who criticize the use of Buddhism for nationalist or extremist ends remain vulnerable to human rights violations, notwithstanding the constitutional prohibition on the use of religion for political ends.[5] U Htin Lin Oo is currently detained without bail in Monywa prison, in Sagaing Region, following a speech he gave in October 2014 in which he spoke out against Buddhism being used as a tool for extremism and nationalism. He was charged in December 2014 under article 295 (a) of the Penal Code, which prohibits "deliberate and malicious acts intended to outrage religious feelings", and article 298, which bans the uttering of words with deliberate intent to wound religious feelings.

12. Freedom of peaceful assembly is also fundamental to a thriving democracy. In the context of the upcoming elections, the Special Rapporteur highlights the following line from the Declaration of Principles for International Election Observation: "Genuine democratic elections cannot be achieved unless a wide range of other human rights and fundamental freedoms can be exercised on an ongoing basis without discrimination".[6] Important progress has been made since 2011 in creating more space for people to express their views peacefully through public demonstrations, rallies and marches. However, on her recent visit, the Special Rapporteur was informed of ongoing arrests and prosecutions of people exercising their rights to peaceful assembly and association, including in relation to land confiscation, large-scale development projects, environmental degradation and constitutional reform. Many protesters are charged under the Law on the Right to Peaceful Assembly and Peaceful Procession, as well as articles 188, 295 (a), 333 and 505 (b) of the Penal Code.

13. The Law on the Right to Peaceful Assembly and Peaceful Procession, amended in June 2014, requires consent to be obtained from the authorities at least five days in advance

[3] Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence, para. 37.

[4] Committee on the Elimination of Racial Discrimination, general recommendation No. 35 (2013) on combating racist hate speech.

[5] Article 364 of the 2008 Constitution states that "the abuse of religion for political purposes is forbidden. Moreover, any act which is intended or is likely to promote feelings of hatred, enmity or discord between racial or religious communities or sects is contrary to this Constitution".

[6] Myanmar is a party to the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of Persons with Disabilities, and is also obligated to abide by international customary law, which includes the Universal Declaration of Human Rights. Article 20 of the Universal Declaration of Human Rights affirms that "everyone has the right to freedom of peaceful assembly and association".

of an assembly or procession.[7] It allows restrictions to be placed on the assembly or procession, even though the law does not set out the precise rules governing the granting of consent, or the imposition of restrictions. Articles 10 to 12 of the law impose detailed restrictions on the actual conduct of the event, including what can be said, chanted and carried, and how participants can behave. Any breach of those rules revokes consent for the event. The Special Rapporteur was informed of several instances in which protests were permitted but the proposed site of the protest was not authorized. Instead, the protest was directed to take place in a location that was remote and not in public sight. When protesters proceeded to voice their concerns in more public locations, they were arrested. The Special Rapporteur is concerned to note continuing examples of harsh application of the law against anti-government protests, while those voicing support for government policies are not subjected to similar restrictions or sanctions.

14. In order for the Law on the Right to Peaceful Assembly and Peaceful Procession to be consistent with international standards, the Special Rapporteur recommends that the prior authorization system for peaceful assemblies be replaced with a system of voluntary notification. The broad range of restrictions on the rights to peaceful assembly and freedom of expression that go beyond the permissible restrictions laid down in international law should also be removed. Further, decisions by the authorities to refuse consent for a peaceful assembly to take place should be subject to a right to appeal to an independent and impartial body. Under article 18 of the Peaceful Assembly Law, a person found guilty of conducting a peaceful assembly or procession without consent is subject to a maximum of six months' imprisonment or a fine of 10,000 kyats, or both. Prison terms are also provided in articles 17 and 19. Criminal sanctions against persons exercising their rights to peaceful assembly and freedom of expression, including the provisions on imprisonment, are inconsistent with international human rights standards.

15. At the end of 2014, official figures indicated that 27 political prisoners remained in prison. However, the Special Rapporteur has received information that the actual number could be much higher. In addition, she was informed during her visit that over 78 farmers were serving prison sentences for trespassing after their land was confiscated and over 200 activists were awaiting trial outside prison. The numbers remain alarmingly high, and the Special Rapporteur is concerned that earlier commitments that there would be no more political prisoners held in Myanmar have not been met.

16. At the end of 2014, the previously constituted Prisoner Review Committee was discontinued and replaced by the 28-member Prisoners of Conscience Affairs Committee, chaired by the Deputy Home Affairs Minister, Brigadier General Kyaw Kyaw Tun. The previous Committee had only met three times during 2014 and did not issue any public reports. The Special Rapporteur has concerns that certain civil society representatives have been left out of the new Committee, and urges the Government to ensure that the new Committee is effective and properly empowered to end the arrest and detention of those exercising their human rights, including their rights to freedom of expression and peaceful assembly. To that end, the Special Rapporteur recommends that the Committee be given clear terms of reference, schedule regular meetings and have unrestricted access to all places of detention with full authority to question State officials. Its work should also be transparent, including through the regular issuance of public reports.

17. During her visit, the Special Rapporteur met with prisoners who were serving sentences under article 18 of the Law on the Right to Peaceful Assembly and Peaceful

[7] Article 4 of the Law on the Right to Peaceful Assembly and Peaceful Procession states that "the citizens or organizations that want to exercise the right to peaceful assembly and peaceful procession and express themselves must apply for consent at least five days in advance".

Procession, including U Sein Than, who was arrested immediately after the Special Rapporteur's previous visit, on his way to the United Nations office to deliver additional documents for transmission to her concerning allegations of land grabbing from the Michaungkan community.[8] U Sein Than was sentenced, under article 18 of the Law, to a total of two years in jail by five different township courts in Yangon for protesting without permission, and was also convicted under the Yangon Municipal Act, reportedly in relation to obstructing the sidewalk. His daughter, Nae Nwe Than, and four others were also charged under article 18 for protesting without permission outside one of U Sein Than's court hearings.

18. The Special Rapporteur also highlights the case of Ko Wai Lu, who has been held in pretrial detention in Insein prison since 18 December 2014 following charges under article 505 (b) of the Penal Code in relation to his support for the Michaungkan community's protests. In addition, on 18 February 2015, 14 members of the Michaungkan community were sentenced to six months' imprisonment under article 18 of the Law on the Right to Peaceful Assembly and Peaceful Procession and articles 142 (unlawful assembly) and 341 (wrongful restraint) of the Penal Code. All 14 are detained in Insein prison, and all are planning to appeal their convictions.

19. The Special Rapporteur commends the openness of the Myanmar Police Force to developing its capacity to protect the rights to freedom of assembly, association and expression through improving its policing of public assemblies in line with international standards, including through its work with the European Union and the Office of the United Nations High Commissioner for Human Rights. However, the Special Rapporteur remains concerned about reports of excessive use of force by the Myanmar police in managing protests. In the most recent case brought to her attention, on 22 December 2014, police using live ammunition reportedly fired at protestors at the Letpadaung copper mine, fatally shooting Daw Khin Win and injuring several others. The Special Rapporteur emphasizes that international standards require that force employed in crowd management situations should be proportional and the minimum necessary to achieve a legitimate policing objective.[9] Intentional lethal force is permitted only when strictly unavoidable in order to protect life. Particular attention needs to be paid to command responsibility and accountability in the management of assemblies. The Special Rapporteur was informed of the numerous challenges that the police face in controlling demonstrations, particularly if the assembly turns violent. She reiterates the need to review national legislation, policies and strategies and undertake comprehensive and ongoing training for law enforcement personnel to ensure they meet international human rights standards in the management of public assemblies.

20. The Special Rapporteur was heartened to hear of the release of Dr. Tun Aung from Insein prison while serving a 17-year sentence for alleged involvement in the violence between Buddhists and Muslims in Rakhine State in June 2012. In addition, the release of Kyaw Hla Aung on 17 October 2014 following a presidential pardon is also welcomed. However, the Special Rapporteur understands that their releases are conditional and calls on the Government to lift all restrictions still placed on them.

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[8] The Michaungkan community had been staging a peaceful sit-in protest near the City Hall in Yangon since March 2014 regarding the alleged confiscation of their land by the military in the early 1990s.

[9] The Code of Conduct for Law Enforcement Officials and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials; article 3 of the Code of Conduct and principle 9 of the Basic Principles reflect binding international law. See the interim report of the Special Rapporteur on extrajudicial, summary or arbitrary executions to the General Assembly (A/61/311), para. 35.

B. Political participation and the electoral process

21. During her visit, the Special Rapporteur found preparations for the forthcoming national elections well under way, with good cooperation between national electoral bodies and international electoral advisors from various organizations. From a human rights perspective, there are several issues that need to be addressed in order for the elections to attain the international standards of being transparent, inclusive, participatory, free and fair. As noted above, the legal framework governing the rights to freedom of expression and peaceful assembly requires greater consistency with international standards. In the lead-up to the elections, particular efforts should be made to widen the space for free and open public debate by all sections of the community. Members of groups that have traditionally been marginalized, such as ethnic and religious minorities, and women, should be particularly encouraged to run for public office and engage in public discussion on election-related issues. In a new and aspiring democracy, it is essential that all members of the public are able to develop informed opinions, independently and without coercion, manipulation or retribution.[10]

22. On 30 September 2014, amendments to the Political Parties Registration Law came into effect and the Union Election Commission informed political parties that they had approximately two months to comply with the amendments. The amendments include provisions that only full citizens are allowed to form political parties; and that only full citizens and naturalized citizens are allowed to be political party members. Prior to the amendments, all categories of citizens, including associate citizens, as well as temporary certificate holders were allowed to form and become members of political parties. The amendments, proposed by the Rakhine National Party, are likely to have the most impact on parties formed by politicians who identify as Rohingya. At the time of the Special Rapporteur's visit, she was informed that not all political parties had yet submitted the information requested to comply with the amendments.

23. On 2 February 2015, the parliament approved a Referendum Bill that allows all categories of citizens, as well as Temporary Registration Card holders, to vote in the constitutional referendum being planned for later in 2015. However, on 17 February 2015, the Constitutional Tribunal delivered its opinion that the Referendum Law is unconstitutional. In addition, on 11 February 2015, the President issued a notification announcing that all existing Temporary Registration Cards would expire on 31 March 2015,[11] and requiring the submission of expired documents by 31 May 2015.[12] Those developments are likely to seriously curtail the political rights of Temporary Registration Card holders and represent a backward step in the reform process.

24. The Special Rapporteur was informed in meetings with government officials and parliamentarians that the Constitutional Referendum will take place in May 2015. However, at the time, it had not yet been agreed which new provisions of the Constitution would be put to referendum. Further, while a referendum is proposed before the national election, it has been said that if it results in the need to amend the Constitution, those changes will not be made prior to the election.

25. The Special Rapporteur encourages further progress on constitutional reform as an integral part of the progress of Myanmar towards democratic transition and national

[10] Human Rights Committee, general comment No. 25 (1996) on the right to participate in public affairs, voting rights and the right of equal access to public service, paras. 12 and 19.

[11] Presidential Notification No. 19/2015, para. 2, carried out pursuant to rule 13 (3) of the 1951 Residents of Burma Registration Rules.

[12] Ibid, para. 3, carried out pursuant to rule 13 (4) of the 1951 Residents of Burma Registration Rules.

reconciliation. The military continues to have a guaranteed 25 per cent of seats in each of the legislative houses (arts. 74, 109 (b) and 141 (b) of the 2008 Constitution) and guaranteed key ministerial posts in the executive, namely Defence, Home Affairs and Border Affairs (art. 232 (b)); and individuals remain barred from running for the Presidency on arbitrary and discriminatory grounds (art. 59 (b), (e) and (f)). Further reforms will be needed to article 40 (c), which authorizes the Commander-in-Chief to assume State sovereign power under a broad set of vague conditions related to a state of emergency. The military also stands above the country's judicial and legal framework, outside of civilian control and oversight. Those shortcomings will also need to be addressed to secure national reconciliation with the country's ethnic armed groups, together with a strengthening of the decentralization that is already provided for in the 2008 Constitution.

26. The Special Rapporteur reiterates statements contained in her previous report that under international standards, the right to stand for election may be limited only on the basis of objective and reasonable criteria, for instance, minimum age and mental incapacity. Disqualifications should not be based on unreasonable or discriminatory requirements such as education, residence or descent, or on political affiliation.[13]

C. Minority and gender-based discrimination

27. The Special Rapporteur continues to be concerned at the lack of comprehensive policies and leadership to address discrimination against ethnic and religious minorities. In the current era of reform, she urges the Government to create a legal and policy framework, based on the international human rights principles of equality and non-discrimination, to address intercommunal tension and violence. In that context, the Special Rapporteur was disturbed to learn of the progress of a package of four bills relating to religious conversion, interfaith marriage, monogamy and population control. Not only are the bills inconsistent with international human rights law, but they have the potential to fuel existing tensions between ethnic and religious minorities in the country.

28. The Religious Conversion Bill establishes a State-regulated system for religious conversion, including through interview with an 11-member Township Registration Board. The Special Rapporteur considers that process inconsistent with the right to freedom of religion. She is further concerned that offences and penalties in the bill for "insulting religion" are vague and could be used to discriminate against minority religions. In a designated region found to have a high birth rate, provisions of the Population Control Bill would be activated to deliver health and population control measures, including potentially requiring 36 months birth spacing between two pregnancies. The Special Rapporteur considers that a legal requirement for birth spacing is an illegitimate interference by the State in the right of a woman to determine the number and spacing of her children, as stipulated in the Convention on the Elimination of All Forms of Discrimination against Women, to which Myanmar is a party. Strategies to address poverty, maternal and child mortality and the use of birth spacing are most appropriately pursued through education, accessible health care and other strategies that empower women. On 19 February 2015, the upper house of the parliament passed the Population Control Bill with 154 votes in favour and 12 opposed.

29. The Myanmar Buddhist Women's Special Marriage Bill would impose additional requirements and potential penalties on non-Buddhist men intending to marry, or who are married to, Buddhist women. It therefore specifically discriminates against non-Buddhist men. The substantive issues that the bill seeks to address, such as the inheritance rights of

[13] Human Rights Committee, general comment No. 25, paras. 4, 15 and 17.

Buddhist women and custody of children after divorce, should be addressed in line with international human rights standards, which apply equally to the whole population. Specific religious groups should not be targeted. The Special Rapporteur was informed that the Penal Code already prohibits polygamy and therefore it does not appear necessary to pass the Monogamy Bill. She is concerned by the language of the bill, which indicates that it is directed towards minority faiths and is discriminatory in intent. The Special Rapporteur refers to the international obligations Myanmar has as a State Member of the United Nations, particularly under the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, the Convention on the Rights of Persons with Disabilities and the Universal Declaration of Human Rights. If those bills are passed, they would be indicative of backtracking in the political reform process and efforts to build a more tolerant and inclusive community.

30. Tensions and violence between religious communities remain a significant problem in Myanmar and there is an urgent need for State policies and programmes to address them, as well as intercommunity education and reconciliation. During her mission, the Special Rapporteur travelled to Lashio to assess the follow-up to intercommunal violence there in May 2013. The violence saw a Buddhist woman severely burnt, one death and the burning of buildings, including two mosques, a Muslim orphanage, Hindu premises and local shops. The violence was characterized by organized mob attacks against local Muslim communities. The Special Rapporteur was impressed by the cooperation between local authorities and the commitment of interreligious leaders from the Buddhist, Muslim, Hindu and Christian communities to work together towards maintaining a peaceful community. Following his visit to the affected area in August 2013, the former Special Rapporteur, Tomás Ojea Quintana, noted that Muslim residents and business owners were experiencing difficulties in returning to their properties due to administrative obstacles regarding land ownership.[14] The Special Rapporteur was disappointed to see that those obstacles have not yet been overcome and urges the authorities to resolve those issues so that the Lashio experience can serve as a model for other regions in Myanmar where such cooperation has been more difficult to achieve.

D. Conflict-related human rights concerns

31. Conflict between the military and ethnic armed groups continues to result in widespread suffering and violations of international humanitarian and human rights law. As of January 2015, there were an estimated 240,000 displaced persons in Myanmar.[15] The Special Rapporteur travelled to northern Shan State with the aim of visiting camps for internally displaced persons to meet persons displaced by the conflict. Due to skirmishes, attacks and counter-attacks at the time of her visit, she was unable to go to the camps. Yet she received information that some internally displaced persons were concerned about being returned prematurely to their villages before safety and stability had been properly re-established. While efforts were being made to ensure adequate humanitarian access to affected areas, the Special Rapporteur was informed that in some cases, access remains difficult for international humanitarian agencies and generally to non-Government controlled areas. Reports were also received of attacks on civilian populations during military operations by both sides and of forced labour, consisting particularly of ethnic armed groups requiring villagers to work as porters. The Special Rapporteur highlights that

[14] See his report on the situation of human rights in Myanmar (A/68/397).

[15] Office for the Coordination of Humanitarian Affairs, 2015 Myanmar Humanitarian Response Plan. Available from www.humanitarianresponse.info/system/files/documents/files/HRP%20Myanmar_FINAL.pdf.

all parties to the conflict have obligations to prevent violations of international humanitarian and human rights law and to facilitate humanitarian access.

32. During her visit, the Special Rapporteur was informed that progress had been made in advancing the peace process and the Government was confident that a nationwide ceasefire agreement would be reached in February 2015. However, since her visit there has been intense fighting in the Kokang self-administered zone in north-eastern Shan State between the Myanmar Army, the Myanmar National Democratic Alliance Army and other armed groups. There are reports that tens of thousands of people have been displaced by the fighting and attacks on humanitarian envoys. On 18 February, a state of emergency was declared for 90 days in the Kokang self-administered zone, providing extensive powers to the military. In view of ongoing allegations of serious human rights violations occurring in ethnic border areas with a heavy military presence, the Special Rapporteur urges the Government to ensure that the international human rights obligations of Myanmar are upheld during the state of emergency. Even during states of emergency, States have an obligation to uphold fundamental human rights, including the rights to life, non-discrimination and freedom from torture.

33. The conclusion of a comprehensive ceasefire agreement based on international human rights principles is an essential precursor to sustainable peace and prosperity in the conflict areas. The Special Rapporteur received reports from some interlocutors that accountability for human rights violations and land rights issues are not priority issues in the ceasefire negotiations. Moreover, her discussions with persons from ethnic minorities revealed the deep level of mistrust and despair with the peace process. At the heart of the conflict lie historically entrenched inequalities, land and natural resource rights issues, discrimination against minorities and widespread human rights abuses. The Special Rapporteur stresses the importance of addressing human rights issues during the negotiation phase, including commitments and mechanisms for accountability, equality and non-discrimination after the ceasefire is achieved.

34. Successive Security Council resolutions have reiterated the importance of women's equal and full participation as active agents for the prevention and resolution of conflicts.[16] Those resolutions call on Member States to ensure women are not only fully included in peace negotiations, but also that a gender perspective is incorporated in all areas of peacebuilding. In Myanmar, ceasefire discussions have primarily been between male military leaders, rendering invisible the experiences, grievances and needs of women and men in the conflict areas.

35. The Security Council has also called on parties to armed conflicts to protect civilians from sexual violence, including by taking disciplinary measures and capacity-building measures.[17] The Committee on the Elimination of Discrimination against Women has also expressed concern over the high prevalence of sexual violence perpetrated by members of the armed forces and urged Myanmar to take immediate steps to put an end to those violations and to prosecute and punish the perpetrators.[18] Allegations of serious human rights violations in conflict areas received by the Special Rapporteur include a significant number of complaints of sexual violence perpetrated by military officers.[19] She was

[16] Security Council resolutions 1325 (2000) and 1889 (2009).

[17] Security Council resolutions 1820 (2008), 1888 (2009), 1960 (2010), 2106 (2013) and 2122 (2013).

[18] Concluding observations of the Committee on the Elimination of Discrimination against Women: Myanmar (CEDAW/C/MMR/CO/3), paras. 24 and 25.

[19] See, for example, the November 2014 report from Women's League of Burma, "If they had hope, they would speak: The ongoing use of State-sponsored sexual violence in Burma's ethnic communities". The report highlights 118 incidents of gang-rape, rape and attempted sexual assault

informed that victims are often reluctant to report their cases for fear of jeopardizing the peace process or out of fear for their own security. Where they are reported, police show reluctance to pursue cases against the military for fear of reprisals. Furthermore, cases take years to pass through the legal system.

36. The Special Rapporteur welcomes ongoing efforts to implement the joint action plan to end the recruitment and use of child soldiers signed by the Government and the United Nations in June 2012. She commends the Government for important steps taken so far to support the implementation of the plan, including the identification and release of 553 children since the action plan was signed; improved access offered to the United Nations country task force on monitoring and reporting by the military to its sites; a nationwide awareness-raising campaign on the issue of child recruitment; and the adoption of a number of directives to clarify policies and practices for military recruitment. However, the Special Rapporteur received information of ongoing recruitment of children into security forces due to a quota-based recruitment system that reportedly continues within the military. She urges the Government to address that issue immediately, and to accelerate the identification, release and reintegration of all children currently serving in the national armed forces and border guard forces.

37. The Special Rapporteur encourages the Government to continue to seek technical assistance to put in place strengthened recruitment procedures, age verification mechanisms and independent monitoring and oversight of all armed forces (including border guard forces and other security forces) to prevent the unlawful recruitment of children. She stresses the importance of bringing to justice those responsible for child recruitment and use, including those with command responsibility and civilian brokers who assist in the unlawful recruitment of children. She urges the Government to ratify the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, in order to further consolidate progress. She recommends that child protection mechanisms should be fully incorporated in ceasefire and peace agreements and in the mechanisms aimed at monitoring their implementation.

Rakhine State

38. In Rakhine State, the Special Rapporteur met with local authorities and community leaders, and visited camps in Myebon and Sittwe for persons who were displaced after the violence in June 2012. It is recognized that those camps include those that are solely for Rohingya Muslims and non-Muslims married to Muslims, as well as camps for those who are Buddhists. During a number of frank discussions with representatives of both communities, the Special Rapporteur was able to deepen her understanding of the root causes of the conflict, the history of Rakhine State and the fears and suffering of its people. The Special Rapporteur firmly believes that the chronic underdevelopment of Rakhine State, and the conditions of poverty in which some people live, must be urgently addressed. However, while she acknowledges that the Rakhine State government has initiated processes for further development, she saw no significant improvement in the situation of human rights from her previous visit in July 2014. In particular, discriminatory restrictions on freedom of movement for internally displaced Muslims remain in place, severely impacting access to health care, food, water and sanitation, as well as education and livelihoods. Furthermore, no independent and credible investigations have been conducted into allegations of serious human rights violations, including during and after the considerable violence in June and October 2012 and January 2014, involving allegations of

documented in Myanmar since 2010, allegedly committed by State forces in both ceasefire and non-ceasefire areas. Available from http://womenofburma.org/if-they-had-hope-they-would-speak/.

extrajudicial, summary or arbitrary executions, sexual violence, arbitrary detention, torture and ill-treatment in detention, and denial of due process and fair trial rights.

39. In her meeting with the Chief Minister of Rakhine State, the Special Rapporteur discussed the Rakhine Action Plan developed by the Union Government and was promised a copy of the latest version. At the time of writing the present report, she had not received a copy and was therefore unable to provide fully updated observations on the human rights implications of the plan. However she remains concerned about any provisions that would fall below international human rights standards, including any measures that would classify Rohingya as "illegal aliens" and subject them to possible prolonged internment in temporary camps or removal from the territory.

40. A significant component of the Rakhine Action Plan previously described to the Special Rapporteur is the citizenship verification process for the Rohingya population. During her recent visit, she visited the Myebon Township camp for Muslim internally displaced persons where a pilot exercise for citizenship verification has been carried out. Internally displaced persons participating in the process had their applications and documents examined to determine their eligibility for citizenship under the 1982 Citizenship Law, on the condition that they identified as Bengali. She was informed by the Deputy Minister for Immigration that amongst the 2,960 internally displaced persons in the Myebon camp, 1,312 persons over 18 years old qualified for citizenship verification, 88 did not apply and 94 had yet to apply. Out of 1,280 applications, to date full citizenship has been given to 97 persons, and 360 have been given naturalized citizenship. Further work will now be done to process the status of children under 18. Inside the camp, the Special Rapporteur was informed by the residents that only 40 persons have received full citizenship and 169 have received naturalized citizenship. The remainder are awaiting the results of the exercise and have not yet been provided with their citizenship cards.

41. The Special Rapporteur met a number of persons in the Myebon Muslim camp who were Kaman Muslims, a recognized indigenous group, and Buddhists married to Muslims, which they verified by showing their identity cards. Yet they could not leave the camp, either out of fear for their security or owing to an actual or perceived lack of authorization. That illustrates that the human rights challenges go beyond persons identifying as Rohingya or Bengali and extend to all Muslims in the area and to persons married to Muslims.

42. The Special Rapporteur was greatly concerned at the abysmal conditions being endured by persons in the Myebon Muslim camp. Even for those who have received their citizenship cards, life has not changed. In the absence of progress towards durable solutions, individual and community coping mechanisms are exhausted and, with no outlets for boredom and frustration, levels of psychosocial stress and trauma will continue to increase if the situation is not resolved. Many people told the Special Rapporteur that they had two options: to stay and die or to leave by boat.

43. The Chief Minister of Rakhine State informed the Special Rapporteur that the atmosphere in Myebon Township remains hostile and that Muslims remain in the camp for their own security. International human rights law is clear on limits to detention where no crime has been committed. The severe curtailment of the rights of internally displaced Muslims in parts of Rakhine State, in conditions of detention with limited access to essential services, is a serious violation of international human rights law and must be addressed immediately.

44. Following attacks on United Nations and humanitarian organizations in March 2014, several international organizations found it necessary to suspend their operations or withdraw their personnel from Rakhine State, which had a significant impact on the well-being of both the Buddhist and Muslim communities. Even though local authorities mobilized additional humanitarian services, the Special Rapporteur received a number of

reports of continued gaps in essential services, particularly in remote parts of northern Rakhine State. Access to health services, food items, non-food items and education remains restricted. For the Muslim community, that is exacerbated by the restrictions on freedom of movement imposed on them and discrimination in access to basic services. The situation with regard to access to health services and facilities remains of great concern and the Special Rapporteur received numerous reports of preventable deaths, including of young children from diarrhoea and due to complications during childbirth.

45. The Special Rapporteur was informed that shortly before her arrival, state authorities had granted increased access for certain international humanitarian NGOs to camps for internally displaced persons. Humanitarian access is still inadequate and below the levels that existed prior to March 2014. Threats against international NGO and United Nations staff working in Rakhine State remain. On 30 December 2014, a United Nations national staff member was beaten by military authorities in northern Rakhine State during the course of performing his work duties. The Special Rapporteur calls on the authorities to ensure accountability for such acts and to ensure the safety of United Nations and international NGO staff. She notes that the three international NGO national staff arrested in connection with the 2012 violence remain in detention in Buthidaung prison and reiterates her call for their immediate release.

46. Throughout the Special Rapporteur's visit, controversy around the use of the term "Rohingya" remained prominent. Both government and Rakhine Buddhist representatives explained to the Special Rapporteur that the term "Rohingya" has no historical or legal basis. It was further explained that to validate the Rohingya as an ethnic group could allow a claim of indigenous status and corresponding rights under the Constitution. The Government has therefore insisted that persons identifying as Rohingya be classified as Bengali, which links their ethnic origins to Bangladesh.[20] The Special Rapporteur once again highlights the right of the Rohingya to self-identification according to international human rights law.[21] She believes the ongoing focus on the terminology used to describe that group has paralysed progress on addressing important human rights issues and achieving durable solutions. The focus must also be on improving the human rights and humanitarian situation of all persons in Rakhine State, including minority communities who face significant discrimination, oppression and injustice on a daily basis.

47. During her visit, the Special Rapporteur heard a large number of rumours and misconceptions that were spread between the communities and used as justification for measures to suppress the Rohingya. The perception amongst the Rakhine Buddhist population that international support is only for the Rohingya and discriminates against their community is still prevalent. Yet the Special Rapporteur saw the international community making a concerted effort to assist both communities, even by building separate schools and health centres side by side.

48. The issues in Rakhine State also have international implications which should be of concern to all Member States. In particular, the human rights violations that are being committed are generating large numbers of asylum seekers and are encouraging people smuggling and trafficking. A report of the Office of the United Nations High Commissioner for Refugees (UNHCR) released in December 2014 states that approximately

[20] In a letter to the Secretary-General dated 17 November 2014 (A/C.3/69/10), the Government of Bangladesh voiced its objection to the use of the term "Bengali" to identify Muslims in Rakhine State.

[21] The right of minorities to self-identify on the basis of their national, ethnic, religious and linguistic characteristics is related to the obligation of States to ensure non-discrimination against individuals and groups — a central principle of international human rights law.

53,000 people left Bangladesh and Myanmar on smuggling boats bound for Thailand and Malaysia between January and November 2014.[22] Addressing the root causes of the human rights violations in Rakhine State would help prevent that domino effect of human rights violations in the broader region.

E. Development, land and environmental issues

49. Foreign investment involving land development has the potential to bring social and economic benefits to Myanmar. However, the risk of human rights violations remains significant in the absence of comprehensive regulation, an effective legal system and a willingness to hold powerful domestic interests accountable when existing laws are violated. In the case of mining projects, the risk of serious environmental damage is acute without prior planning to manage harmful waste materials. The Special Rapporteur reiterates her call to the Government to proactively manage development and investment processes to ensure a rights-based and people-centred form of sustainable development. That should include poverty reduction, equitable resource sharing and non-discrimination as its central pillars. While legislative change will assist the process, changes in attitudes and behaviour at all levels of government will also be needed.

50. Prominent throughout the Special Rapporteur's visit were complaints of illegal land confiscation, forced evictions and concerns about land use policy. The Myanmar National Human Rights Commission informed the Special Rapporteur that the majority of complaints it receives concern land. The Special Rapporteur also received information on cases in which excessive force had been used against rural farmers and urban residents protesting at the loss of their homes and livelihoods. A large number of protestors against land confiscations have been charged with trespassing and given harsh prison sentences. A notable incident was that at Letpadaung on 22 December 2014 when evicted farmers protesting against a copper mine proposed by the Myanmar Wanbao company were met with excessive use of force by local authorities.

51. During her visit, government interlocutors told the Special Rapporteur of the challenges relating to sustainable and profitable land development so that all persons in Myanmar can benefit from available opportunities. She is aware that in October 2014, the Government released its draft National Land Use Policy for public consideration and comment. The Special Rapporteur commends the Government for its current work towards a national land use policy, particularly proposals to strengthen security of tenure for marginalized and vulnerable groups, such as informal or non-registered land rights-holders, ethnic minorities and women.

52. Concern was expressed to the Special Rapporteur that the development of the land policy has been too fast and with insufficient consultation. She urges the authorities to proactively expand the consultation process and seek additional comments on successive versions of the draft policy and the resulting draft land law.

Community level development

53. The Special Rapporteur was pleased to see programmes to improve education, health care and livelihoods being developed by relevant ministries, and congratulates the Government for its collaboration with the international community in that area. However, she reiterates that those programmes must be designed through broad-based and genuine

[22] UNHCR, "South-East Asia: irregular maritime movements, January–November 2014". Available from www.unhcr.org/53f1c5fc9.html.

consultation with affected communities in a transparent and receptive manner, including with local government authorities. In that regard, she highlights the need for women to play a greater role in the development process, both as agents and beneficiaries.

54. The proposed Child Law is an opportunity to remove ambiguity in existing laws in order to ensure a universal right to birth registration for all children born in Myanmar. In particular, provisions should ensure that children of stateless parents acquire a nationality through official mechanisms. Additionally, the definition of a child should be consistent with the Convention on the Rights of the Child, which specifies that "a child" means every human being below the age of 18 years. As a signatory to the Convention on the Rights of Persons with Disabilities, the Special Rapporteur also urges the Government to develop a legal framework to promote inclusive education for children with disabilities and to move away from a parallel system of education. Separating children with disabilities frequently has the effect of entrenching their segregation and exclusion from society.

55. As the reform process moves forward, access to education for the younger generation becomes increasingly central to ensuring Myanmar can move to the next level of prosperity. The Special Rapporteur was disturbed to hear that at the Yangon University graduation ceremony in December 2014, around 300 students did not receive their diplomas as they did not hold Citizenship Scrutiny Cards. That particularly affected Muslim students originating from Rakhine State. Access to education should be non-discriminatory and should not be based on citizenship status.[23] During the Special Rapporteur's visit, the Deputy Minister for Education reassured her that the situation would be remedied, and she hopes that safeguards will be put in place to prevent the situation from reoccurring.

56. Recently, student groups across Myanmar protested, demanding changes to the National Education Law for universities, including the right to form independent student and teacher unions, changes to university examinations and entrance requirements, the use of ethnic minority languages to teach some courses and modernization of the national syllabus. The Special Rapporteur was informed that negotiations between the Government, the parliament and the students had led to proposals for amendments to the law. She urges the Government to consider all comments in the spirit of transparent, inclusive and comprehensive consultation, and to align the law with international human rights standards.

F. Rule of law and accountability

57. Important challenges remain in establishing respect for the rule of law. Building confidence in the system of law enforcement and the judiciary will take time but must be based on the principle of accountability. Throughout her visit, the Special Rapporteur was informed of continued failure to hold State authorities accountable for serious violations of international human rights law.

58. The Special Rapporteur wishes to draw particular attention to the case of Brang Shawng, who on 13 February 2015 was sentenced by Hpakant Township Court in Kachin State to either six months in prison or a 50,000 kyat fine (US$ 50) under article 211 of the Penal Code. He had been charged with making "false allegations" against the Myanmar

[23] Article 2 of the Convention on the Rights of the Child, which Myanmar has ratified, requires that all rights set forth in the Convention, including article 28 guaranteeing the right to education, should be guaranteed without discrimination of any kind, including on the basis of national, ethnic or social origin. In its 2012 concluding observations on Myanmar, the Committee on the Rights of the Child expressed concern that children belonging to minority groups are denied access to education and recommended that Myanmar take effective measures to improve access to education, and primary health care for children (CRC/C/MMR/CO/3-4, paras. 96–97).

Army after he called on the President and the Myanmar National Human Rights Commission to investigate the fatal shooting of his 14-year-old daughter, Ja Seng Ing, in 2012. The Special Rapporteur understands that he chose to pay the fine but plans to appeal the conviction. Brang Shawng had been subjected to two years of court proceedings, including over 50 court appearances, and faced the prospect of a two-year prison sentence if convicted. In the meantime, an official inquiry into the death of Ja Seng Ing has yet to be initiated. The Special Rapporteur is concerned about the human rights implications of that case, particularly with regard to the right to equality and an effective remedy under the law, and the right to make complaints about acts relating to human rights and to have such complaints reviewed. The State also has a duty to ensure the protection of complainants against any reprisal or retaliation as a consequence of their complaint.[24] The Special Rapporteur raised those concerns in several meetings with the Myanmar authorities, who provided various explanations which she considers unsatisfactory. She urges that an independent and transparent criminal inquiry into the death of Ja Seng Ing be conducted as soon as possible, and for the criminal conviction of Brang Shawng to be overturned.

59. Information gathered by the Special Rapporteur indicates that it is not uncommon for persons making allegations against the military to be subject to criminal proceedings for defamation or providing false information. She notes with concern reports following the murder of two ethnic Kachin schoolteachers in northern Shan State in January 2015 that, after initial investigations, the military publicly stated that its soldiers were not responsible and that public comments accusing the military would be met with legal action. Myanmar is currently transitioning from military rule to a democracy and it will take time to make the necessary changes required to ensure full civilian rule and accountability of State actors. However, the Special Rapporteur believes that an immediate step would be to ensure that victims are not penalized for bringing complaints and seeking redress against alleged human rights violations by the Myanmar military.

III. Conclusions

60. **Since 2011, Myanmar has undergone far-reaching changes that have affected most aspects of life in the country. However, as the Special Rapporteur warned in her previous report, there continue to be signs of backtracking by the Government. During her visit, the Special Rapporteur observed a growing atmosphere of fear, distrust and hostility. One example of that was the sexist personal attacks that she received from a nationalist Buddhist monk at the end of her visit. In Rakhine State, the atmosphere between communities is hostile, with the Union Government justifying the confinement of many Muslims in camps for internally displaced persons as necessary for their protection. The four "race and religion" bills currently before the parliament will hinder Myanmar from developing into a pluralist society and instead will cement discriminatory attitudes and policies.**

61. **Since her visit, there has been an alarming escalation of violence in Kokang self-administered zone in north-eastern Shan State between the Myanmar Army, the Myanmar National Democratic Alliance Army and other armed groups. The Special Rapporteur reminds all parties of the need to protect civilians and to facilitate humanitarian access. The state of emergency declared by the Government in the Kokang self-administered zone must be accompanied by strict accountability and safeguards for human rights.**

[24] See art. 9, para. 2, and art. 12, para. 2, of the Declaration on Human Rights Defenders.

62. While the growing economy has benefited some in the country, there remain large sections of the population who have been left out. Development programmes must be based on the central pillars of poverty reduction, equitable resource sharing and non-discrimination. Unless development is carried out in a way that is equitable, with even the most vulnerable having access to improved education, health care and livelihoods, the Government risks leaving large parts of the population with legitimate grievances against the State. In a country with a long history of violent conflict, such grievances risk further disassociation from the State and extension or renewal of instability and conflict. The Government should focus on creating an empowered population, including the youth and women, to ensure that a new generation can work together to create a prosperous and stable country and reverse the current slide towards extreme nationalism, religious hatred and conflict.

IV. Recommendations

63. The Special Rapporteur makes the following recommendations to the Union Government of Myanmar, which also serve as a guide for possible areas of assistance and engagement by the international community. The Special Rapporteur encourages the United Nations system to engage in principled human rights and humanitarian advocacy and human rights-based programmes of assistance to address the recommendations, in line with the Secretary-General's Human Rights Up Front initiative.

64. Regarding freedom of expression, association and peaceful assembly, the Government should:

(a) Remove the broad range of restrictions on the rights to peaceful assembly and freedom of expression in the Law on the Right to Peaceful Assembly and Peaceful Procession Act that go beyond the permissible restrictions laid down in international law. Replace the system of prior authorization for peaceful assemblies with a system of voluntary notification. Remove criminal sanctions, including provisions for imprisonment, for acts protected under international standards on freedom of expression and peaceful assembly;

(b) Amend the News Media Law to ensure the code of conduct for media workers is voluntary, and strengthen the independence of the Media Council;

(c) Develop safeguards to ensure accountable and open criteria-based decisions on the granting of registration to publications under the new Printing and Publishing Enterprise Law;

(d) Establish a public broadcaster that can operate in an independent manner with editorial freedom, which should include a system of funding that does not undermine its independence;

(e) Ensure that law enforcement officials do not use excessive or disproportionate force when managing protests, which includes ensuring that force is only used for the legitimate purpose of law enforcement and maintaining public order, that it is strictly necessary and that its use is proportional to the seriousness of the offence and the legitimate purpose to be achieved;

(f) Ensure that instances of possible excessive or disproportionate use of force are investigated promptly and impartially. Where evidence of excessive use of force is found, ensure that perpetrators are prosecuted and punished with penalties commensurate with the gravity of the acts, and that victims are provided with redress, including compensation;

(g) Ensure that the use of surveillance powers are justified in accordance with the law and in pursuit of a legitimate aim, and that law enforcement officials respect the principles of necessity, proportionality and non-discrimination, including through the establishment of judicial and parliamentary oversight of such powers.

65. **Regarding political prisoners, the Government should:**

(a) Release all political prisoners, including those convicted under the Law on the Right to Peaceful Assembly and Peaceful Procession and article 505 (b) of the Penal Code following participation in peaceful protests, as well as journalists convicted under outdated defamation, trespassing and national security laws. Demonstrate a genuine commitment to ending the imprisonment of persons for political reasons;

(b) Ensure that the newly constituted Prisoners of Conscience Affairs Committee is able to develop comprehensive terms of reference which enable it to consider all new and remaining cases of political prisoners. Schedule regular meetings of the Committee, and provide the Committee with unrestricted access to all places of detention and full authority to question prisoners in private, as well as State officials. Ensure the transparency of the Committee's work, including through the regular issuance of public reports.

66. **Regarding political participation and the upcoming elections, the Government should:**

(a) Ensure genuinely democratic elections can be achieved by ensuring human rights and fundamental freedoms can be exercised on an ongoing basis without discrimination, including the rights to freedom of opinion, expression, association and peaceful assembly in freedom from fear and intimidation;

(b) Pursue greater efforts to increase the representation and participation of women as candidates and voters in the forthcoming elections, including through the introduction of mandatory quotas;

(c) Find solutions to allow all habitual residents of Myanmar to vote in the upcoming constitutional referendum and general election;

(d) Initiate meaningful democratic amendments to the 2008 Constitution, including articles 40 (c), 59, 74, 109 (b), 141 (b) and 232 (b).

67. **Regarding discrimination against minorities and gender-based discrimination, the Government should:**

(a) Take urgent steps to address escalating extremist nationalist sentiment in the country by ensuring senior government officials speak out against instances of hate speech, and ensure the investigation of the extent of the harm caused to persons as a result of hate speech and incitement to violence and ensure that perpetrators are held to account;

(b) Revise or withdraw the Population Control Healthcare Bill, the Bill Relating to the Practice of Monogamy, the Bill on Religious Conversion and the Myanmar Buddhist Women's Special Marriage Bill, which do not meet international human rights standards and risk entrenching discrimination against women and minorities;

(c) Pursue strategies to address poverty, maternal and child mortality and the use of birth spacing through public health education, including on sexual and reproductive health, rather than legal requirements that are contrary to international human rights law standards;

(d) Resolve the citizenship status of habitual residents of Myanmar, including Temporary Registration Card holders, and ensure that they have equal access to citizenship through a non-discriminatory process;

(e) Amend the discriminatory 1982 Citizenship Law to bring it into line with international standards. In particular, remove any provisions that provide for the granting of citizenship on the basis of ethnicity or race.

68. **Regarding Rakhine State, the Government should:**

(a) Ensure that the Rakhine State Action Plan is consistent with international standards and does not include measures that would subject the Rohingya community to arbitrary detention or deportation;

(b) Respect the right of the members of the Rohingya community to self-identification according to international human rights law, including in the citizenship verification process;

(c) Ensure the provision of health services, food items, non-food items and education in all camps for internally displaced persons, including those in remote parts of northern Rakhine State;

(d) Lift the severe and discriminatory restrictions on freedom of movement in Rakhine State;

(e) Review and revise all local orders, instructions and other policies and practices that are discriminatory in law and practice;

(f) Progressively lift restrictions on access by the media, non-governmental and international organizations to northern Rakhine State;

(g) Immediately release the three national staff members of international NGOs who are detained in Buthidaung prison.

69. **Regarding conflict-related human rights concerns, the Government should:**

(a) Take urgent measures to end the rapidly escalating conflict and subsequent state of emergency in the Kokang self-administered zone by addressing the root causes of the conflict;

(b) In areas where armed conflict continues, ensure that all parties adhere to international humanitarian law and international human rights law, and that they take all necessary precautions to ensure the protection of civilians and safe access for humanitarian workers providing assistance to those who are displaced;

(c) Ensure that the members of ethnic groups participating in ceasefire and political negotiations truly represent the relevant communities, particularly with regard to the participation of women, and provide for mechanisms to monitor the implementation of the human rights elements of any ceasefire and political agreements;

(d) End all child recruitment by continuing to seek technical assistance to put in place strengthened recruitment procedures, age verification mechanisms and independent monitoring and oversight of all armed forces. Release all children currently serving in the armed forces, and ratify the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict;

(e) As a matter of urgency, the Government should address the ongoing impunity for human rights violations committed by security personnel, including in

relation to allegations of extrajudicial, summary or arbitrary executions, sexual violence, arbitrary detention, and torture and ill-treatment in detention.

70. **Regarding sustainable development and programmes to improve education, health care and livelihoods, the Government should:**

(a) Proactively ensure that participatory, inclusive and meaningful consultations on land development have taken place with all relevant stakeholders and that comments received have been properly considered, and that environmental and social impact assessments that are in line with international human rights standards are undertaken prior to the granting of land concessions;

(b) Ensure continued participatory, inclusive, broad-based and meaningful consultations on the proposed National Land Use Policy for as long as is required, and ensure that the proposed policy gives overriding priority to securing tenure rights for those who have used land for long periods;

(c) Ensure that the proposed Child Law removes ambiguity in existing laws in order to guarantee a universal right to birth registration for all children born in Myanmar;

(d) Ensure that any amendments to the National Education Law are made after wide consultations with all parties concerned.

71. **Regarding cooperation with the international community, the Government should:**

(a) Expedite the establishment of an office of the United Nations High Commissioner for Human Rights in Myanmar with a full mandate;

(b) Improve the operational environment for the United Nations and international NGOs by addressing blockages for visa and travel authorization applications;

(c) Continue to engage closely with the United Nations human rights system, including the treaty bodies and special procedures mandate holders. Ensure a full and participatory process of preparation for the forthcoming universal periodic review, involving civil society and national institutions;

(d) Expedite ratification of the Convention against Torture and the Optional Protocol thereto, and the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.

72. **The international community should remain constructively and critically engaged with the human rights situation in Myanmar and support the Government, including through policy dialogue and technical assistance, in carrying out further reforms that fulfil its human rights obligations.**